

**BOARD FOR ARCHITECTS, PROFESSIONAL ENGINEERS,
LAND SURVEYORS, CERTIFIED INTERIOR DESIGNERS
AND LANDSCAPE ARCHITECTS MEETING**

MINUTES

The Virginia Board for Architects, Professional Engineers, Land Surveyors, Certified Interior Designers and Landscape Architects (APELSCIDLA Board) met on December 16, 2009, at the Department of Professional and Occupational Regulation, 9960 Mayland Drive, Richmond, Virginia, with the following members present:

Architects

James R. Boyd
J. Everette Fauber, III
Michael F. LeMay

Professional Engineers

Nico De León
Stanley C. Harris, Sr.
Wiley V. Johnson, III

Land Surveyors

Nancy E. McIntyre
W. R. Stephenson, Jr.

Interior Designers

Lorri B. Finn
Cameron C. Stiles

Landscape Architects

Vaughn B. Rinner
Andrew M. Scherzer

Board member John McAden was not present at the meeting.

Staff present for all or part of the meeting were:

Jay W. DeBoer, Director
Mark N. Courtney, Deputy Director for Licensing and Regulation Division
Kathleen R. Nosbisch, Executive Director
Marian H. Brooks, Program Administrator
Amy Goobic, Administrative Assistant
Earlyne Perkins, Legal Analyst

Steven P. Jack, Assistant Attorney General, was present at the meeting.

Ms. McIntyre, Chair, called the meeting to order at 9:07 a.m.

Ms. McIntyre advised the Board of the emergency evacuation procedures.

Call to Order

**Emergency
Evacuation
Procedures**

Mr. Fauber moved to approve the agenda as amended. Ms. Stiles seconded the motion which was unanimously approved by members: Boyd, De León, Fauber, Finn, Harris, Johnson, LeMay, McIntyre, Rinner, Scherzer, Stephenson, and Stiles.

Approval of Agenda

Mr. Stephenson moved to approve the minutes for the following meetings:

Approval of Minutes

- September 15, 2009, APELSCIDLA Board Meeting;

- September 15, 2009, Land Surveyors Section Meeting (Exam Workshop);
- October 9, 2009, Informal Fact-Finding Conference (ID);
- October 13, 2009, Informal Fact-Finding Conference (PE);
- October 23, 2009, Informal Fact-Finding Conference (ID);
- October 28, 2009, Architects Section Meeting;
- November 5, 2009, Professional Engineers Section Meeting;
- November 10, 2009, Interior Designers Section Meeting;
- November 17, 2009, Land Surveyors Section Meeting;
- November 17, 2009, Land Surveyors Section Meeting (Exam Workshop); and
- December 10, 2009, Informal Fact-Finding Conference (PE)

Mr. Fauber seconded the motion which was unanimously approved by members: Boyd, De León, Fauber, Finn, Harris, Johnson, LeMay, McIntyre, Rinner, Scherzer, Stephenson, and Stiles.

There were no comments made to the Board.

Regarding **File number 2010-01439, Beverly St. Hilaire**, the Board members reviewed the record of the Informal Fact-Finding Conference, which consisted of the application file, transcripts and exhibits, and the Summary of the Informal Fact-Finding Conference as well as the Section's recommendation. Ms. Finn moved to accept the recommendation of the presiding Board member, and approve Ms. St Hilaire's application for certification as an Interior Designer. Mr. Fauber seconded the motion which was unanimously approved by members: Boyd, De León, Fauber, Finn, Harris, Johnson, LeMay, McIntyre, Rinner, Scherzer and Stephenson. As the presiding Board member, Ms. Stiles, was not present during the discussion or vote.

Regarding **File number 2010-01107, Bruno Grinwis**, the Board members reviewed the record of the Informal Fact-Finding Conference, which consisted of the application file, transcripts and exhibits, and the Summary of the Informal Fact-Finding Conference as well as the Section's recommendation. Ms. Finn moved to accept the recommendation of the presiding Board member, and approve Mr. Grinwis' application for certification as an Interior Designer. Mr. Fauber seconded the motion which was unanimously approved by members: Boyd, De León, Fauber, Finn, Harris, Johnson, LeMay, McIntyre, Rinner, Scherzer and Stephenson. As the presiding Board member, Ms. Stiles, was not present during the discussion or vote.

Mr. Mitchell was present to address the Board. Mr. Mitchell gave a brief background of his professional career and the circumstances surrounding his disciplinary case. Mr. Mitchell respectfully requested the Board consider lesser sanctions than was contained in the IFF summary recommendation.

Public Comment Period

File Number 2010-01439, Beverly St. Hilaire

File Number 2010-01107, Bruno Grinwis

File Number 2009-01548, Dennis Troy Mitchell

Regarding **File number 2009-01548, Dennis Troy Mitchell**, the Board members reviewed the record of the Informal Fact-Finding Conference, which consisted of the investigative file, transcripts and exhibits, the Summary of the Informal Fact-Finding Conference as well as the Section's recommendation. Mr. Boyd moved to accept the Summary of the Informal Fact-Finding Conference as to the facts, which cites the following violations of the Board's regulations: 18VAC10-20-750 (Count 1); 18VAC10-20-740.B (Count 2); and 18VAC10-20-740.C (Count 3). Mr. LeMay seconded the motion which was unanimously approved by members: Boyd, De León, Harris, Finn, Johnson, LeMay, McIntyre, Rinner, Scherzer, Stephenson and Stiles. As the reviewing Board member, Mr. Fauber was not present during the discussion or vote.

Ms. Perkins indicated that there have been no prior disciplinary actions against Mr. Mitchell. After discussion, Mr. Stephenson moved to reject the recommendation of the Presiding Board Member and recommended: no fine for the violation contained in Count 1; \$1,250 fine for the violation contained in Count 2; \$1,250 fine for the violation contained in Count 3, for a total monetary fine of \$2,500; as well as probation of Mr. Mitchell's architect license for a period of three years. During the probation, any infraction of the Board's regulation may result in further disciplinary sanctions or suspension. Ms. Stiles seconded the motion which was unanimously approved by members: Boyd, De León, Harris, Finn, Johnson, LeMay, McIntyre, Rinner, Scherzer, Stephenson and Stiles. As the reviewing Board member, Mr. Fauber was not present during the discussion or vote.

Regarding **File Number 2009-01550, Dennis Troy Mitchell**, the Board members reviewed the record of the Informal Fact-Finding Conference, which consisted of the investigative file, transcripts and exhibits, the Summary of the Informal Fact-Finding Conference as well as the Section's recommendation. Mr. Boyd moved to accept the Summary of the Informal Fact-Finding Conference as to the facts, which cites the following violations of the Board's regulations: 18VAC10-20-750 (Count 1); 18VAC10-20-740.B (Count 2); and 18VAC10-20-740.C (Count 3). Ms. Rinner seconded the motion which was unanimously approved by members: Boyd, De León, Harris, Finn, Johnson, LeMay, McIntyre, Rinner, Scherzer, Stephenson and Stiles. As the reviewing Board member, Mr. Fauber was not present during the discussion or vote.

File Number 2009-001550, Dennis Troy Mitchell

Ms. Perkins indicated that there have been no prior disciplinary actions against Mr. Mitchell. After discussion, Mr. Boyd moved to reject the recommendation of the Presiding Board Member and recommended a duplication of the penalties determined in File #2009-01548: no fine for the violation contained in Count 1; \$1,250 fine for the violation contained in Count 2; \$1,250 fine for the violation contained in Count 3, for a total of \$2,500 in monetary penalties; as well as probation of Mr. Mitchell's architect license for a period of three years to serve concurrently with the probation

recommended in File #2009-01548. During the probation, any infraction of the Board's regulation may result in further disciplinary sanctions or suspension. Mr. LeMay seconded the motion which was unanimously approved by members: Boyd, De León, Harris, Finn, Johnson, LeMay, McIntyre, Rinner, Scherzer, Stephenson and Stiles. As the reviewing Board member, Mr. Fauber was not present during the discussion or vote.

Regarding **File Number 2009-02762, Frederick Alan Gibson**, the Board members reviewed the Consent Order as seen and agreed to by Mr. Gibson. Mr. Stephenson moved to accept the Consent Order which cites the following violation: 18VAC10-20-370.D.2 (Count 1). For this violation, Mr. Gibson agrees to pay the following monetary penalties: \$600.00 for the violation contained in Count 1; and \$150.00 in Board costs, for a total monetary penalty of \$750.00. In addition, Mr. Gibson agrees to complete at least eight (8) classroom hours of continuing education pertaining to boundary surveying and/or other equivalent course approved by the Board and provide proof of attendance and successful completion within twelve (12) months of the effective date of this order. It is acknowledged that satisfactory completion of the above-referenced continuing education hours will not count towards any continuing education requirements, if applicable, for renewal of license.

File Number 2009-02762, Frederick Alan Gibson

Ms. Stiles seconded the motion which was unanimously approved by members: Boyd, De León, Fauber, Finn, Harris, Johnson, LeMay, Rinner, Scherzer, Stephenson, and Stiles. As the reviewing Board member, Ms. McIntyre was not present during the discussion or vote.

Regarding **File number 2009-04270, George W. Robertson**, the Board members reviewed the Consent Order as seen and agreed to by Mr. Robertson. Mr. Stephenson moved to accept the Consent Order which cites the following violation: 18VAC10-20-370.D.2 (Count 1). For this violation, Mr. Robertson agrees to pay the following monetary penalties: \$900.00 for the violation contained in Count 1; and \$150.00 in Board costs, for a total monetary penalty of \$1050.00. In addition, Mr. Robertson agrees to complete at least eight (8) classroom hours of continuing education pertaining to boundary surveying and/or other equivalent course approved by the Board and provide proof of attendance and successful completion within twelve (12) months of the effective date of this order. It is acknowledged that satisfactory completion of the above-referenced continuing education hours will not count towards any continuing education requirements, if applicable, for renewal of license.

File Number 2009-04270, George W. Robertson

Mr. Boyd seconded the motion which was unanimously approved by members: Boyd, De León, Fauber, Finn, Harris, Johnson, LeMay, Rinner, Scherzer, Stephenson, and Stiles. As the reviewing Board member, Ms. McIntyre was not present during the discussion or vote.

Regarding **File Number 2010-01303, Michael Scott Newlin**, the Board

File Number 2010-

members reviewed the record of the Informal Fact-Finding Conference, which consisted of the application file, transcripts and exhibits, and the Summary of the Informal Fact-Finding Conference as well as the Section's recommendation. Ms. Rinner moved to accept the recommendation of the presiding Board member and approve Mr. Newlin to sit for the FE examination. Mr. Stephenson seconded the motion which was unanimously approved by members: Boyd, De León, Fauber, Finn, Harris, LeMay, McIntyre, Rinner, Scherzer, Stephenson, and Stiles. As the presiding Board member, Mr. Johnson, was not present for the discussion or vote.

01303, Michael Scott Newlin

Regarding **File number 2010-00137, Christopher James Beard**, the Board members reviewed the Consent Order as seen and agreed to by Mr. Beard. Mr. Harris moved to accept the Consent Order which states the following:

File Number 2010-00137, Christopher James Beard

- Pursuant to 18 VAC 10-20-75 the voiding of Mr. Beard's examination scores for the Fundamentals of Engineering Examination taken on April 25, 2009; and.
- Mr. Beard voluntarily agrees to withdraw his pending application for Engineer-in-Training Designation pending with the Board; and
- Upon entry of this order, the Board agrees to pursue no further investigation into Beard conduct during the Fundamentals of Engineering Examination taken on April 25, 2009.

Mr. Johnson seconded the motion which was unanimously approved by members: Boyd, De León, Fauber, Finn, Harris, Johnson, LeMay, McIntyre, Rinner, Scherzer, Stephenson, and Stiles.

After reviewing the application and Agreement for Registration, Mr. Stephenson moved to accept the Agreement for Registration as seen and agreed to by L. Robert Kimball & Associates, Inc. Mr. Harris seconded the motion which was unanimously approved by members: Boyd, De León, Fauber, Finn, Harris, Johnson, LeMay, McIntyre, Rinner, Scherzer, Stephenson, and Stiles.

Agreement for Registration 2010-02, L. Robert Kimball & Associates, Inc.

After reviewing the application and Agreement for Registration, Mr. Harris moved to accept the Agreement for Registration as seen and agreed to by Varo Engineers, Inc. Ms. Stiles seconded the motion which was unanimously approved by members: Boyd, De León, Fauber, Finn, Harris, Johnson, LeMay, McIntyre, Rinner, Scherzer, Stephenson, and Stiles.

Agreement for Registration 2010-03, Varo Engineers, Inc.

After reviewing the application and Agreement for Registration, Ms. Stiles moved to accept the Agreement for Registration as seen and agreed to by Bower Lewis Thrower Architects, Ltd. Mr. Fauber seconded the motion which was unanimously approved by members: Boyd, De León, Fauber, Finn, Harris, Johnson, LeMay, McIntyre, Rinner, Scherzer, Stephenson, and Stiles.

Agreement for Registration 2010-04, Bower Lewis Thrower Architects, Ltd.

The Board members recessed from 10:18 a.m. until 10:37 a.m.

Recess

Mr. Costello was present to address the Board. Mr. Costello explained his request for guidance from the Board on the two issues discussed.

**Request for Board
Interpretation from
Richard Costello, PE
– Correcting and/or
Modifying Plans**

Ms. Nosbisch informed the Board that the request for interpretation from Mr. Costello had been discussed at the PE and Land Surveyors Section meetings. Both Sections agreed that there is a distinct difference between “completing” or “replicating” a plan (18VAC10-20-740.D) and correcting or modifying. Regulation 18VAC10-20-740.D specifically addresses “completing” or “replicating” and does not specifically address “correcting or modifying” a plan.

Nonetheless, if a professional is using a plan to correct or modify an existing structure, they are taking responsibility for the modification and ensuring that the correction or modification has no adverse ramification on the rest of the design. However, the “corrected or modified” plan should note sourcing information, and that field verification of the information from the original plan must be performed.

The Board concurred with the PE and Land Surveyor Sections. Mr. LeMay moved to accept the proposed response by Ms. Nosbisch to Mr. Costello. Mr. Harris seconded the motion which was unanimously approved by members: Boyd, De León, Fauber, Finn, Harris, Johnson, LeMay, McIntyre, Rinner, Scherzer, Stephenson, and Stiles.

Ms. Nosbisch informed the Board that the second request for interpretation from Mr. Costello had also been discussed at the PE and Land Surveyors Section meetings. Mr. Costello’s request dealt with the Virginia High Voltage Line Safety Act, certain sections of the National Electric Code and the responsibility of surveyors to include this information on subdivision plans or “house permit plans or plots.”

**Request for Board
Interpretation from
Richard Costello, PE
– VHVLSA & NEC
Related to Surveying
Requirements**

The Board agreed that this information would affect the licensee differently depending on whether they were performing a physical survey or a design; and that if a “professional” is involved in the design, they need to be aware of applicable laws, regulations and ordinances.

Mr. Johnson moved to accept the proposed response by Ms. Nosbisch to Mr. Costello. Mr. Harris seconded the motion which was unanimously approved by members: Boyd, De León, Fauber, Finn, Harris, Johnson, LeMay, McIntyre, Rinner, Scherzer, Stephenson, and Stiles.

Ms. Nosbisch informed the Board that the request for interpretation regarding Code Evaluation Reports and their adherence to Board regulations had been discussed at the PE Section meeting. The Section reviewed several sample

**Request for Board
Interpretation on
Code Evaluation**

evaluation reports and documents provided by the petitioner. The Section agreed that pursuant to §54.1-402.A.9, if a Professional Engineer or Architect is not required on a project, the Code Evaluation Reports are permissible. If a Professional Engineer or Architect is required, then the licensee is responsible for the design of the project and could use the Code Evaluation Reports for material selection. The application of the standard design must be signed by a Virginia licensed professional.

Reports

Mr. Johnson moved to have the Board's response state "if there is a design using the materials, application must be signed/sealed by the professional." Ms. Rinner seconded the motion which was unanimously approved by members: Boyd, De León, Fauber, Finn, Harris, Johnson, LeMay, McIntyre, Rinner, Scherzer, Stephenson, and Stiles.

Ms. Nosbisch informed the Board that the request for interpretation from Mr. Dunlap had been discussed at the PE and Land Surveyors Section meetings. The correspondence received from Mr. Dunlap, concerned VDOT/Fairfax County and their requirement for a Professional Engineer to sign/seal certain documents. Mr. Dunlap holds a Land Surveyor B license and feels that he should be allowed, according to statute, to sign/seal documents that contain engineering incidental to his project. Mr. Dunlap explained that in one instance he was permitted to design the road changes, but was not allowed to seal/stamp the road markings. The Sections had established that the Board can determine whether a licensee is qualified or not, but cannot tell the permitting agency what to do.

Request for Board Interpretation from Chuck Dunlap, LS – Regarding VDOT

Mr. Stephenson moved to draft a response to Mr. Dunlap, copying VDOT, stating that a Land Surveyor B may be qualified to sign/seal such work. Mr. Harris seconded the motion which was unanimously approved by members: Boyd, De León, Fauber, Finn, Harris, Johnson, LeMay, McIntyre, Rinner, Scherzer, Stephenson, and Stiles.

The Board was provided correspondence from VDOT concerning the signing and sealing of plans by Professional Engineers. VDOT also provided a list of documents that are now required to be signed and sealed by a Professional Engineer.

Discussion of VDOT Professional Signing and Sealing Implementation

Discussion was held and it was determined that the initial correspondence was intended as internal requirements for VDOT. However, it seems VDOT may mistakenly apply internal requirements to external professionals. Such may have been the case with Mr. Dunlap.

The Board determined that more discussion was needed on this topic. Ms. Rinner moved to table the discussion and discuss in Section meetings. Mr. Johnson seconded the motion which was unanimously approved by members: Boyd, De León, Fauber, Finn, Harris, Johnson, LeMay, McIntyre, Rinner, Scherzer, Stephenson, and Stiles.

The Board members recessed from 11:28 a.m. until 11:45 a.m.

Recess

Mr. Nick Christner, Deputy Director, Compliance and Investigations, gave a presentation on the structure of the Compliance and Investigations Division, the complaint process and enforcement process.

Compliance & Investigations Enforcement Training

Mr. Courtney provided the Board members with training on the Regulatory Review process.

Regulatory Review Training

The Board members were provided with a comprehensive report of enforcement activity since the last Board meeting.

Comprehensive Report of CID Activity

The Board members were provided with financial statements from June 2009 for informational purposes.

Review of Board Financial Statements

Ms. Nosbisch informed the Board that a motion was needed to file the Notice of Intended Regulatory Action (NOIRA) for the regulatory review. Mr. Boyd moved to file the NOIRA. Mr. Fauber seconded the motion which was unanimously approved by members: Boyd, De León, Fauber, Finn, Harris, Johnson, LeMay, McIntyre, Rinner, Scherzer, Stephenson, and Stiles.

Other Business

Ms. Nosbisch reported on the online transactions that the Board is receiving. From May to September the number of transactions has risen from just over 500 to over 4,000.

Ms. Nosbisch informed the Board that a motion was needed to elect a funded delegate to the NCEES Joint NE/Southern Zone Interim Meeting. Mr. Johnson moved to nominate Ms. Nosbisch. Mr. De León seconded the motion which was unanimously approved by members: Boyd, De León, Fauber, Finn, Harris, Johnson, LeMay, McIntyre, Rinner, Scherzer, Stephenson, and Stiles.

Conflict of Interest forms were completed by all members present.

Conflict of Interest Forms

There being no further business, the meeting was adjourned at 12:02 p.m.

Adjourn

Nancy E. McIntyre, Chair

Jay W. DeBoer, Secretary

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